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Winslow Warren

THE STRUGGLE OF THIRTEEN STATES FOR THIRTEEN YEARS

TO CREATE A GOVERNMENT.

1776-1789.

AN ADDRESS

BY

WINSLOW WARREN,

DELIVERED BEFORE THE BUNKER HILL MONUMENT ASSOCIATION

JUNE 17, 1912.

BOSTON: JUNE, 1912.

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ADDRESS.

A casual reading of the Declaration of Independence may well give the impression that with its promulgation there and then the United States were born and a new American Nation created.

In a sense it was the birth of the United States; but nothing can be farther from the actual fact than that it created a Nation. It proclaimed nothing but the existence thereafter of Thirteen Independent States, if they could maintain themselves, although it contained within itself certain ideals which were to be the basis of a future Nation. Other than that, it was but a statement of grievances against the King of England, some of them complaints of the very efforts he was making to suppress the rising rebellion, and some of a very shadowy and unsubstantial nature, serving as a general proclamation to the world of the causes or pretexts for revolution.

Had the fortunes of war proved adverse, history would have regarded it as a mere *brutum fulmen* — however full of dynamite it might have proved to its signers — and matters would have resumed their normal channels as in the case of other unsuccessful revolutions. The nearest approach to the establishment of a government was in the contemporaneous appointment of a committee of one from each of the Thirteen Colonies June 10, 1776, to report to Congress Articles of Confederation; but five years passed by before

that committee presented its report and secured its adoption; and, as we shall see, the Articles then proved but a feeble rope of sand.

After July 4, 1776, there were nominally independent States, but no Nation for years to come; and the lack of any cohesive governing body with actual power nearly brought to ruin the hopes engendered by the Declaration.

Frothingham, in his *Rise of the Republic*, well says: "By the Declaration of Independence the sovereignty of Thirteen Colonies passed from the Crown to the People dwelling in them, not as an aggregate body but as forming States endowed with the functions necessary for their separate existence, also States in Union."

States in Union they were to a certain extent, and theoretically endowed with the necessary functions; but the nature of the Union, its powers and purposes, and its reality as a Nation were yet to be determined.

To understand the situation and the results following the Declaration, it is necessary to consider the causes underlying it and the course of events preceding it, and more particularly those of the few years immediately before its promulgation, when the controversies which in different forms and places had so long been raging in the Colonies rapidly approached a culmination.

As far as Massachusetts was concerned, the quarrel with Great Britain may be said to have fairly begun almost with the settlement of the Colony, for there was hardly a time from the very beginning when she was not engaged in disputes with the mother country over Charters or Navigation Acts and Acts of Trade, or over the appointment of Royal officers, or over claims of Parliamentary powers openly or covertly resisted; and outbursts of actual violence and resistance had not been infrequent in all her history. Her Colonial Governors and Assemblies had early announced

that Acts of Parliament were not binding unless approved by local assemblies, and that was essentially the doctrine which was the very gist of the American Revolution.

The long-continued indifference of the mother country to the assumption by the various Colonies of the right in large measure to legislate for themselves, had undoubtedly fostered a spirit of independence, which broke forth in open opposition when the British Parliament attempted to assume powers which, if they existed at all, had been so long dormant that to the Colonists their assertion could only appear as uncalled-for interference with the natural rights of free men. Duties upon imports into the Colonies had been imposed by Great Britain long before 1765, and by many Statutes; Royal officers had been appointed by the Crown; — the logical difference between this right of external taxation and that of internal taxation by stamp duties is not easy to define, and the more probable explanation of what followed the legislation from 1765 on is that the spirit of revolt was in the air and that the impatience of British authority had reached such a point that Acts of Parliament which earlier might not have been violently opposed, now aroused a people grown conscious of their own strength, and who, almost unknown to themselves, had begun to look upon independence as their right and ultimate destiny. Not, of course, that the question of independence had assumed a definite shape or become an acknowledged principle of action; but the feeling was there, and by force of circumstances every step taken in assertion of Colony rights led straight to that goal.

Some form of Union of the Colonies had been agitated for years. In 1754 a Congress of the Colonies met for conference, but without positive results; and in 1765 a Congress in New York, attended by delegates from nine Colonies, had gone so far as to issue a Declaration of Rights, and to take

rather suggestive steps towards consolidating the people in defense of their imperilled Charters. The idea of union and harmony of action in resistance to British aggression and claims of Parliamentary domination, rapidly grew as the Colonies increased in population and importance, and the revived assumption of British power caused a bitter spirit of opposition.

While Stamp Acts and Tea Acts and appointments by the Crown of Royal officers and judges were general in their application to the Colonies, Massachusetts was for a while the storm center; and while the arbitrary closing of the Port of Boston, the quartering of troops upon the people, and other offensive acts were local in their effect, they were resented by all the Colonies as pointing to a common danger; and resistance to stamp officers and to carrying into effect the tea and stamp Acts was by no means confined to Boston.

New England, as feeling British action more directly, may have been more excited and violent in its opposition; but Virginia was inspired by the same feeling, and her strong and active leaders of public sentiment were no less determined and outspoken. In all the large cities like New York, Philadelphia, and Charleston there were scenes of violence and the most active opposition to British authority. North Carolina, with her large Scotch-Irish population, had already been in revolt against the ruling powers upon local questions, and was eager to espouse the common cause. Maryland, under a different form of government, and by reason of her different religious belief, not affected in the same way as Massachusetts by religious questions, was in full concert with New England in her resistance to Parliamentary claims; and the other Colonies, though at first less openly affected by the general agitation and excitement, were early swept into the common sympathetic current. The growth of the inde-

pendent spirit bore little relation to governmental forms or religious creeds or local characteristics. All the Colonies alike had acquired, to a greater or less degree, the habit of managing their own affairs unmolested, and had been compelled by their isolation and distance from the mother country to rely upon their own resources and make their own laws, with little regard to the assent or approval of Parliaments.

Thus the Colonies, under the impulse of a common danger, drifted into actual revolution, not altogether as the result of oppression and injustice, but by the natural explosion of feeling pent up until it had reached the bursting point.

Outwardly there was in the beginning but little talk of independence; yet there were many who from the very outset looked forward to it, and they were not slow to covertly add fuel to the flames. It is clearly evident that men like the two Adamses and their sympathizers in Virginia and other Colonies early grasped the real situation, and that, though guarded in expression for a while, they were not in doubt whither events were tending. In private, there was much talk of independence, and there were some bold outcroppings from individuals; and it is probable that many felt what John Adams expressed in a letter to William Tudor, in 1818, that: "The Revolution was effected before the war commenced. The Revolution was in the minds and hearts of the people."

Soon the demand for a Congress of the Colonies to consider the situation and to take active steps for a redress of grievances became an overwhelming force, though, in the excited condition of the people's minds, it could not be otherwise than a serious proposition, full of hazard to those who still retained their allegiance to Great Britain and wished for nothing but reconciliation and peace. As with all revolutions, events were marching faster than men, and the unwisdom of the British Parliament in forcing just then meas-

ures which their wisest men foresaw were untimely and dangerous, brought things to a rapid termination.

Responsive to the universal feeling, Virginia stood foremost for action; and early in 1774 formulated a proposal for a general Congress of the Colonies to consider the situation. The suggestion was eagerly caught up elsewhere, and was followed in June of that year by the appointment by Massachusetts of delegates to a Congress to meet in September in Philadelphia, and by her calling upon all the Colonies to unite in the movement proposed by Virginia.

All the Colonies except Georgia promptly responded; and at the time and place suggested, delegates chosen by regular assemblies or by self-constituted gatherings of the people, met together to confer as to what form of concerted action should be taken to maintain their rights and to defend their liberties. The Congress had no defined powers and no clearly outlined purpose, other than to compare notes and to see what measures could be jointly taken for the common welfare; but as time went on, it assumed to itself broad powers, and took action such as its originators had little dreamed of.

There was so little real union feeling among the distinct and separate Colonies, such jealousies and suspicions, such divergent thoughts and such diversity of grievances, that from the first it was easy to see how difficult it would be to harness into a national system such discordant Colonies; and all the difficulties arising later, when independence was declared, were distinctly foreshadowed in the early deliberations. Sectional feeling, extreme sensitiveness over the rights of individual Colonies, abhorrence of anything resembling a central controlling power, were in evidence then as they have been since, down to this very present time.

The Congress thus assembled was distinctly and pre-eminently a peace Congress. Whatever may have been in the minds of some of its more radical delegates, to the vast

majority there had as yet come no thought of separation from the mother country; and the Congress looked hopefully forward to such concert of action only as would secure peaceful redress of grievances and a complete reconciliation.

But loyal and peaceable as the Congress was when it first met, it was early forced into such pronounced action that the prospect of reconciliation rapidly faded; and with the certainty that armed conflict impended, the only hope soon left was that war might lead to a better understanding and to ultimate peace without separation.

As might have been expected, the delegates were in little accord as to what powers their constituents had conferred upon them, or as to the support they would have for any positive action they might take. The New England delegates were looked upon with suspicion, and their radical views were abhorred and had but little support except from Virginia and from a few individual delegates elsewhere; but they were strong men, whose influence immensely increased as the difficulty of the situation became more plain and the necessity of positive measures of resistance more clearly developed.

Von Holst, in his *Constitutional History of the United States*, thus describes the Congress:

"How far the authority of the First Congress extended according to the instructions of its delegates, it is impossible to determine with certainty at this distance of time; but it is probable the original intention was that it should consult as to the ways and means calculated to remove the grievances and to guarantee the rights and liberties of the Colonies, and should propose to the latter a series of resolutions furthering these objects. But the force of circumstances compelled it to act and order immediately, and the people by a consistent following of its orders approved the transcending of the original instructions. The Congress was, therefore, not only a revolutionary body from its beginning, but its acts assumed a thoroughly revolutionary character."

This is an accurate description of the Congress, and it is not strange that with the existing uncertainty as to powers and purposes it proceeded very cautiously at the beginning.

The first important acts were the issuing of Addresses to the King, to the people of Great Britain, and to the Colonies, a recommendation to the Colonies to adopt non-intercourse Acts, and the approval of a Declaration of Rights.

The difficulty of the position at the outset is clearly shown by the impossibility of reconciling much of the language of these papers with any hope of reconciliation or of a peaceful redress of grievances. Singularly enough, the drafting of the Declaration of Rights was committed to John Adams, notwithstanding the knowledge the Congress had of his advanced and positive views; and the document itself bears incontestable marks of his authorship, for in plain words it asserted free and exclusive powers of legislation in the several Provincial Legislatures, and denied that "the indubitable rights and liberties of the people could be taken from them, abridged or altered by any power whatever without their own consent by their own representatives in their own several Provincial Legislatures." To the ordinary mind this would seem like shutting the door against possible reconciliation, for Great Britain could not possibly have admitted so bold a claim without assenting to virtual independence and the abandonment of all her claims. Whether the other delegates saw this or not, there is little doubt what Adams intended; and we are not surprised therefore to find him writing to Mercy Otis Warren in 1807 that "the Declaration of Rights and Resolves of October 14, 1774, contain all the solid principles which nearly two years afterwards were inserted in the Declaration of Independence."

Yet Congress unanimously adopted this Declaration in face of the fact that in its Memorial to the People of Great Britain it had said: "You have been told we are seditious, impatient

of government, and desirous of independency. Be assured these are not facts but calumnies." Here would seem a strange inconsistency or deception; yet it was capable of a fair explanation without charging insincerity. To all the delegates, a firm stand seemed the only possibility of ultimate reconciliation; and while more moderate men were deluding themselves with vain hopes, their more advanced brethren were well content with general professions of loyalty while events were inevitably tending to that independence to which it was not yet wise policy to openly commit themselves.

It was evident enough that, whatever was intended, the only effect of the action taken at this session of Congress could be to increase disaffection and strengthen the growing hostility of the Colonies.

Congress adjourned to May, 1775; but before it again met, the whole face of things changed more radically and with more rapidity than any delegate could have conceived possible. Before the Spring of 1775, Massachusetts had flamed into open rebellion. The sequence of Stamp Acts and Tea Acts, of riotous assemblies, of the closing of the port, of the overbearing insolence of Royal officers, and of the various steps of Great Britain to enforce her authority, was the organization of the Massachusetts Provincial Assembly and its assumption of full control over Massachusetts Colonial affairs, even to the arming, equipping and drilling of military bodies in preparation for actual conflict.

Naturally enough, an explosion followed, and April 19, 1775, came the fight at Lexington and Concord between the Royal troops and the militia; and whatever the situation may have elsewhere been, thenceforward Massachusetts, aided by the other New England Colonies, was at open war with Great Britain, and a New England army commanded by Artemas Ward, a Massachusetts General, and with other officers commissioned by the Massachusetts Provincial Assembly, rapidly

gathered at Cambridge and besieged the Royal troops in Boston.

The die had been cast when the appeal went forth to the other Colonies to rally to the support of Massachusetts; yet Congress resumed its sitting in May, apparently unconscious that the time for discussion had passed. It still talked reconciliation and again petitioned the King for redress of grievances, only to see its agent ignominiously repulsed and its Memorial met by drastic orders against all who were in rebellion.

Circumstances now forced its unwilling hand; for the actual situation at Boston could not be ignored, and the Congress took the decisive step of adopting the army before Boston as a Continental Force, chose Washington as Commander-in-Chief, appointed other General Officers, made rules for governing the forces in the field, took action to create a navy and to issue letters of credit, and appointed agents to seek help from foreign powers. This was War, and so plainly spelled independence that the control of affairs rapidly centered in the more radical leaders like the Adamses, the Lees, Jefferson, Patrick Henry, Franklin, and others; and while the main body of delegates hesitated and still hoped for peace, the country was committed to a settlement only to be reached by bloody conflict.

Still, notwithstanding this warlike situation, outside of Massachusetts and of the minds of a few of the more active leaders, the hope of reunion had not been lost, and but little appreciation was had of the seriousness of the breach with the mother country. We find when Washington passed through New York to take command of the army at Cambridge, its Provincial Congress, in congratulating him upon his appointment, expressed its belief — "that whenever this important contest shall be decided by that fondest wish of each American soul — an accommodation with our mother country — you will cheerfully resign the deposit committed into your hands."

The first phase of nationality now appeared in the assump-

tion by Congress of extraordinary power over all the Colonies, acquiesced in without opposition, though few could have realized the full import of such action.

Washington with a body guard of Southern troops arrived in Cambridge July 2, 1775, to assume the duties of Commander-in-Chief imposed upon him by Congress; but again the march of events had been so rapid and unforeseen as to change the face of things. A few weeks before his arrival a real battle had been fought, at Bunker Hill, between British troops and a local New England army under local officers, and the siege of Boston had been undertaken by this same army before its recognition by Congress. Washington thus found himself in command of a considerable force, which had tested its courage and strength in battle, and though undisciplined and wanting in equipment, was ready and anxious for conflict, and had precious little idea that its members were ever again to come under British sway.

Congress again adjourned to September, but in a very different mood from that of its first meeting. The unexpected complications which had arisen showed that "reform within the party" was likely to be a failure, and that a war had been begun from which there was no retreat, except in separation from the mother country.

It is rather surprising to find that Von Holst, in his *History* before referred to, says that: "Even in August or September, 1775, — half a year after the battle of Lexington, — so strong was the Anglo-Saxon spirit of conservatism and loyalty among the Colonists that the few extremists who dared to speak of a violent disruption of all bonds entailed chastisement upon themselves and were universally censured."

Certainly, as applied to New England, where there was open war, this could not have been true, and it was equally incorrect as to the attitude of leading spirits in Pennsylvania and Virginia, and elsewhere in the South. The Suffolk Resolves, long

before this, had pretty clearly spelled independence, and the Mecklenburgh Declaration in North Carolina, authentic certainly in some form, had spoken plainly enough; and there can be no doubt that the subject of independence was openly discussed, not only in the army at Cambridge, but by a large portion of the press and in the correspondence of leading men everywhere.

But whatever may have been the situation in the early Fall of 1775, the proclamation of the King in response to the second petition of Congress, which arrived October 31, and the news of the employment of Hessian troops, ended all hopes of a peaceful adjustment; and from that time forth independence was not only in the air, but openly urged upon the floor of Congress and throughout the Colonies.

At the September Session delegates from Georgia appeared, and Congress thenceforward represented all the thirteen Colonies.

Through the ensuing winter Congress, as it were, marked time, pulsing the sentiments of the people, discussing plans for confederation, listening, it is true, to suggestions of compromise but all the while exercising as far as practicable full powers of government in making steady preparations for war, equipping privateers, providing funds, accumulating supplies, and in drastic efforts to suppress the Tory element and disarm opposition. Further pretense of loyalty became absurd, and all energies were bent towards a war with the mother country, which could of necessity have but one successful issue, and that was separation.

In December, Generals Montgomery and Arnold led a New England force in a brave but futile attack upon Montreal and Quebec, in the hope that Canada would cast in her lot with the Colonies. Ticonderoga and Crown Point were seized by irregular bodies of Colonial troops, thus forcing Congress somewhat unwillingly to determine the status of the British

soldiers captured and held as prisoners of war to provide for the disposition of guns, munitions of war, and supplies captured in the forts, and to determine whether the forts should be held and garrisoned. All of these were crucial questions, and action upon them carried the Congress still farther towards actual war and separation.

The British troops on their part now invaded Virginia. Norfolk was burned and a British fleet attacked Charleston, South Carolina, without success. These acts conspired to still more arouse and inflame the people, and they rapidly armed and troops were collected in the different Colonies for open war.

About this time, in January, 1776, Thomas Paine issued his book entitled "Common Sense," setting forth in plainer terms than had yet been used the impossibility of reunion with Great Britain, and that the only hope was in independence. This publication had a tremendous effect upon the minds of the people, and strongly added to the growing feeling for independence.

In March came the inspiring success of Washington in compelling the British troops to evacuate Boston, which effected a great change in the political situation, widened the seat of war by the transference of the army to New York and — more important than all — made a real Continental Army of what had theretofore been little but an irregular New England army.

In nearly all the Colonies the move for independence rapidly gained force. Some local assemblies instructed their delegates to advocate it in Congress; meetings in its favor were everywhere held, and prominent leaders urged upon Congress that the time had come for positive action in that direction.

On June 7, 1776, the final step was taken when Richard Henry Lee, on behalf of the Virginia delegates, acting under instructions from the Virginia Assembly, rose from his seat and

moved in Congress for the adoption of the Resolve that "these United Colonies are, and of right ought to be, free and independent States; that they be absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is and ought to be totally dissolved." Without hesitation John Adams of Massachusetts, recognizing what had long been the dearest hope in his mind and in that of many of the more pronounced delegates, seconded Lee's motion, and an earnest debate was opened upon the question of its acceptance by Congress.

To many it was not a surprise, but naturally a considerable portion of the delegates were unprepared for so radical a step; — some, not disinclined to it themselves, were in grave doubt whether the Congress had power to act upon so drastic a Resolution. Some questioned whether the Colonies they represented would be willing to indorse it and instruct them to vote in its favor. There were no means of telling, and there was much real doubt whether any Colony outside of Massachusetts would show a majority of its people in favor of it. A warm discussion followed showing the divergent views of the delegates, and action was postponed until June 10. Upon that day the lines became more closely drawn, and it plainly appeared that Massachusetts, Virginia, New Hampshire, North Carolina, Rhode Island, Georgia and Connecticut were ready to vote for it, but that New York, Pennsylvania, Delaware, New Jersey, South Carolina and Maryland were not yet ready to commit themselves. It was deemed wise to further postpone definite action upon the Resolution, and its consideration was referred to the meeting of Congress July 1; but a very important step was taken by a vote of seven Colonies to five — one not voting — to appoint Committees to draft a form of Declaration of Independence, and to prepare Articles of Confederation for the government of the Colonies in case of separation.

The advocates of independence naturally felt great encouragement at this action, and every effort was made by personal appeal, letters and meetings, to influence the doubtful delegates. July 1, the debate upon the Resolution was resumed, and for nine hours was most earnest and vigorous. At the end, however, the Resolution was carried in the Committee. Nine Colonies — Massachusetts, Virginia, New Hampshire, Connecticut, Rhode Island, Maryland, North Carolina, New Jersey and Georgia — voting in its favor; Pennsylvania and South Carolina voting against it; Delaware evenly divided and New York not voting. The Committee rose and reported their action to the House, and the next day, July 2, the majority of the delegates of each of twelve Colonies voted to accept the Report, New York not voting in the absence of instructions.

The formal Declaration drafted by the Committee was not adopted until July 4, when it received the assent of a majority of the delegates from each Colony except New York, and of that Colony July 9, through the unanimous action of the New York Convention. July 4, it was signed by John Hancock, President, and Charles Thompson, Secretary, and ordered by Congress to be promulgated, although the actual signing by delegates was not completed until later, fifty-four having signed by August and one — Thomas McKean of Delaware — not signing until October, and Matthew Thornton of New Hampshire being the last signer, in November.

It should be noted also that several of the signers were not elected delegates until after July 4.

Thus, after hesitation and debate and with much pressure upon the doubtful members, the independence of the Thirteen Colonies was declared with substantial unanimity, and they thenceforward became Thirteen States in nominal union. No declaration was made of an independent Nation, and it hardly could be said that a Nation yet existed, although Con-

gress did thereafter refer to the States in union as a Nation, and actually refused to listen to the Peace Commissioners because they did not present credentials to an independent State, or in terms consistent with "the honor of an independent Nation."

It is singular, too, that there appears no determination or declaration that there was to be a Republic, nor was there any such provision until the Constitution of 1789, except that the Northwestern Ordinance of 1787 provided that new States should have republican governments; and no provision whatever was made for any form of national government, other than the appointment before noted of a Committee to report Articles of Confederation upon some future day not stated.

Under these circumstances the Congress could only take to itself the governing power, though it had obviously been chosen for an entirely different purpose and had had no such power conferred upon it by its constituents.

The strange spectacle was now presented of thirteen new independent States embarking upon a war with one of the most powerful nations of the earth, without preparation, without a definite head, under the leadership of a Congress which itself had no powers except such as it assumed, and — worse still — when few of the States had anything in the shape of a government, and when the others, if not overrun by British troops and unable to form a government, were totally disorganized and in confusion owing to internal struggles between the revolutionists and the active and numerous Tories.

The prospect seemed desperate enough at best; but to add to the difficulties, not long after the Declaration a sort of paralysis seemed to come over the Congress, and the remarkable efficiency it had so far shown was curiously followed by a period of indecision and weakness. The factious disputes which followed, in the only body having any power

at all, were most unfortunate and seemed to indicate the early destruction of the new Confederation.

The Congress of 1774 had been a remarkable body. It had faithfully and skillfully devoted itself to a difficult and perplexing task; it had been untiring and indefatigable, and in the infinite and laborious details to which the individual members gave themselves, they were worthy of all praise. It had had to create, equip and organize an army; to negotiate loans for a country without standing or credit; to create governmental agencies of all kinds out of the rawest of material; to provide arms, ammunition and supplies without a commissary department or any known sources from which they could be drawn; to open communications with foreign powers and to seek aid by loans or otherwise; to create a navy and prize courts; to build up some sort of governments for the States unable to create their own, — States jealous, too, of one another and of any attempt by Congress to enforce powers; and all this and more had to be done with a large part of the people actually hostile to the cause, and with the knowledge that Congressional power over its armies was so loose that the latter were liable to dissolve and disappear at any time, according to the whims of the men enlisted.

The task was a stupendous one, but had been dealt with with remarkable success and with wise management and courage; but when efficiency was most needed, in the fall of 1776, Congress lost its grip, became the prey to discouragement and almost despair, and its action was palsied by petty quarrels and disagreements.

There were many things that conspired to bring this about: Washington's defeat in New York and its occupation by the British; the invasion of New Jersey and Pennsylvania and of the South carried dismay and discouragement, and it was of serious importance that Congress had lost many able and experienced members by the demand upon them,

in their own States, to fill important positions. There was the necessity, further, of sending strong men abroad as agents to foreign powers, and there were serious losses in membership by the withdrawal of some from lack of sympathy with the radical action taken. There was also the neglect or refusal of the States to complete their quotas of troops; their delays in honoring requisitions for food or supplies to the starving army; the unfortunate jealousies and bickerings among the officers; the falling off of enlistments, and the frequent desertions from the army. It was not strange that such a combination of discouragements had a disastrous effect, and that it soon led to a general tone of despondency and a listlessness and inactivity at a time when the utmost energy and exertion was imperatively needed.

The failure of Washington's campaign in New York, and his retreat southward, roused a dangerous opposition to his leadership, which had the active or concealed support of eminent members of Congress, and might have been successful but for the brilliant and unexpected victories at Trenton and Princeton, and the reaction among the people in New Jersey and elsewhere, caused by the brutally offensive conduct of the Hessian troops. The revolutionary cause was thus early in dire peril, and that it rallied was due, more than to any other thing, to the efficient support given Washington by officers of the army like Greene, Lincoln, Knox and Hamilton, and to the self-sacrificing spirit of individuals like Trumbull of Connecticut, Robert Morris, the Lees, Livingston, Rutledge, and others of extensive influence whose efforts and example rallied the people, shamed and overthrew the cabals in Congress, and erelong created such a healthy revulsion of feeling that Congress changed its policy of hesitation and opposition, conferred upon Washington a practical dictatorship, again gave him its confidence and extended to him a much more cordial and active support.

But the real trouble was the lack of any central government with defined powers that it could enforce upon the States through its own courts. The Union was largely a sentimental one, with no cohesive power and with little hearty and unselfish State co-operation, — hence neglect by the States to answer requisitions enfeebled the army and hindered warlike operations, while the truly patriotic officers whose hard lot it was to resist the invaders with armies it was almost impossible to retain in the field, were hampered by disputes over rank and the constant jealousies of officers from one State against those from other States. No help came from the new Articles of Confederation, for the Committee of Thirteen appointed in June, 1776, failed to report until April, 1777, and then the only member of the original Committee still in Congress was Samuel Adams, and he was not present when the vote was taken in Congress for the adoption of the Articles. After adoption, November 15, 1777, they were referred to the States for ratification, and as the votes of all thirteen were required, it was not until March, 1781, that the assent of the last State, Maryland, was assured, her action having been postponed until a shadowy promise could be obtained from some of the States and Congress that the portions of the Northwestern Territory, claimed by the States, should be ceded for the common benefit. The failure of the States to act in this matter brought about, as we shall see later, the agitation that resulted in the Constitutional Convention.

It is well to notice here in passing how frequently our Revolutionary history encountered the fateful number thirteen. There were thirteen States — there were thirteen Articles of Confederation — there were thirteen years between the Declaration of Independence and the adoption of the Constitution, and there were thirteen Stars and thirteen Stripes upon the American flag, but notwithstanding all

this and the plain violation of many of the laws of economics and finance the country has survived and been blessed to an uncommon degree.

The attitude of Congress is well described by Hart in his *American Nation*, when he says: "In all that Congress did, it never seemed to entertain a doubt about its actual subordination to the Colonial Assemblies which it represented. Up to the time of the adoption of the Articles of Confederation, Congress was merely the central office of a continental signal system. Its bulletins were made laws by the Assemblies, not because the recommendations were looked upon as having legal form, but because they were accepted as the most trustworthy readings of the signs of the times."

It is not my purpose to set forth or discuss the events of the war, except so far as they bore upon the governmental situation; and there was but little change in this respect between 1777 and 1781. The war was carried on by Congress, with such aid as it could get from the States, with more or less efficiency and with indeterminate results, until the important alliance with France was effected, and her troops and navies appeared upon the scene. The blame for conditions existing was no more with Congress than with the States, and was clearly the fault of the system and the utter lack of any controlling power.

The Articles having been ratified by all the thirteen States, the Congress of the Confederation met November 30, 1781; but new duties and responsibilities were then imposed upon a new Congress no whit stronger than the previous one, and with its powers but little enlarged by the Articles, — in fact, to a certain extent they were lessened, for the old Congress could properly claim that its powers were unlimited, while after adoption they were to some extent more clearly defined, though no greater power existed of enforcing them upon the States. The surrender of Cornwallis at Yorktown had, however, practically

ended the war; and this of itself materially changed the situation.

There was now a little more substantial shadow of real government, for the Articles of Confederation provided that the citizens of each State should have, in the different States, the privileges and immunities granted to citizens of the several States, that Congress should have the express right to determine war and peace, might raise forces and make rules therefor; might levy taxes (whether collectible or not), might fix the value of coinage, make treaties with foreign powers, regulate the post office, settle disputes between the States, and establish foreign courts. So much was a gain; but there was still the lack of responsible executive power or of any judiciary to enforce Congressional Acts; and what above all else was peculiarly unfortunate and leading to inevitable disaster, the States were left to regulate commerce with the result that might have been expected, that the various States immediately undertook to enact hostile legislation upon commerce against each other, and internecine commercial warfare was thus inaugurated, sure to breed bad feeling and enmity between the States; further, no important legislation could be had without the assent of the States, and the Articles were capable of amendment only by the agreement of the whole thirteen. The most that can be said is that these Articles did give a foreshadowing of a division of powers between a central government and the States, but it was too indefinite to make the scheme a real workable plan. Von Holst says of it: "The governmental machinery of the Confederation was as imperfect and clumsy as it could well be. It not infrequently seemed as if it would cease working altogether. . . . The moment all external pressure [of the war] was removed, the crazy structure began to fall to pieces with a rapidity which astonished even those who had, during the struggle, the best opportunity to learn its weaknesses."

The Confederation was quite as unprepared for peace as it had been for war. It was able to negotiate a treaty of peace with Great Britain, but with the humiliating feeling — erelong to be made a certainty — that it could give no guaranty that the States would abide by its terms; and in fact these were so openly and flagrantly violated and disregarded that foreign powers looked on aghast, having no faith in the permanency of such an Union, and expectant only that it would soon break into fragments which would be absorbed by France or other powers.

Bad as the Congressional situation unquestionably was, — internal perils were equally threatening, — the States would not or could not furnish money to pay the troops. The war was over and their term of enlistment had expired, but such a dissatisfied and mutinous spirit prevailed in the army that Congress was fearful that it could not peacefully be disbanded while its just demands were unsatisfied; to make things worse, foreign loans were coming due, to which the honor of the country was pledged; yet no money was forthcoming to pay them. The wisdom and firmness of Washington, ably seconded by his leading officers, averted trouble with the army, and with difficulty the loans were partially paid or extended through such State aid as could be got and by the unselfish action of individual patriots. The final disbandment of the army was effected; but, unfortunately, that threw upon the country a large body of unemployed men without means of support, just at the time when business became stagnant, owing to the loss of markets which had been available during the war, and to the sudden closing of important avenues of profit. The currency, too, was depreciated and in utter confusion, and neither Congress nor the States had any credit at home or abroad. Raw and inexperienced men, often without standing in the community, were largely at the head of affairs in the States, in place of the number of wealthy and influential citizens who had fled or been

driven away; and demagogues availed themselves of their opportunity to exploit to ready hearers all kinds of wild financial schemes and projects.

Owing to the awkward provision as to amendment of the Articles of Confederation, Congress was soon left in a helpless position, and it was no wonder that attendance upon its meetings so fell off that at times no quorum could be had, and seldom could there be mustered at any session over twenty-five members out of the total ninety-one. To ratify the Treaty of Peace, only twenty-three members representing eleven States could be assembled; and when Washington appeared before Congress to resign his command, only twenty members were present, representing seven States. It became a peripatetic body, now meeting in one place, now in another. It was bad enough when money was wanting to pay foreign loans, but the situation was hopeless when the States neglected or refused to furnish money for the ordinary expenses of government, and capped their neglect in some cases by treating Congress with contempt and by alluding to it as a foreign power, without resources or honor. One newspaper described it as "a pendulum vibrating between Annapolis and New York," and another, "like unto a wheel rolling from Dan to Beersheba and from Beersheba to Dan, with no rest this side of Jordan."

Naturally, Congress lost interest and power, literally fell to pieces, and practically abandoned its sittings. In the States things were hardly better; some of the new State governments were exceedingly unstable — very few had formulated constitutions; there was violent commercial war between the different States, those having ports taxed the imports coming through them from other States, and others levied direct taxes upon goods coming into their borders; State navigation laws treated citizens of other States as aliens, in violation of the Articles of Confederation to which all the States had formally

agreed. When Congress at the instance of our ministers abroad urged treaties amending the navigation laws to prevent the exclusion of our ships from foreign ports, though it was for their own benefit the States would take no action; the treaties made with England, France and Holland were openly disregarded; contrary to express stipulations of the treaty with England, the property of Tories was confiscated and their persons imperilled; laws were made in the vain hope of compelling people to trade at the face value of a heavily depreciated paper currency; and perhaps more dangerous than all, actual conflict between the States was threatened over the disputed claims to Northern and Western territory.

Independent Confederacies began to be talked of; the new settlers on Western lands threatened to set up for themselves or even to combine with Spain; the State courts fell into disrepute and a bitter feeling of hatred and jealousy was aroused against law and lawyers, resulting in a serious rebellion in Massachusetts requiring a formidable body of State troops for its suppression.

The discontent and bewilderment of the people was studiously fomented by many of those who had been lukewarm in the Revolution and who still regarded the principles of the Declaration of Independence as impracticable folly. Anarchy seemed in plain view; the people were showing themselves unfit for self-government, and thus early loomed the spectacle deprecated long after by Daniel Webster of "States dissevered, discordant, belligerent — a land rent with civil feuds and drenched it may be in fraternal blood." Dr. Jeremy Belknap, writing to Ebenezer Hazard in 1784, says: "Imagine thirteen independent clocks going all together by the force of their own weights, and carrying thirteen independent hammers fitted to strike on one bell."

Some remedy it was imperatively necessary to find; — yet what? The States were so determined in opposition to any

central power which might limit or restrict their rights that amendment of the Articles of Confederation in that direction seemed hopeless; and when the Legislature of New York declared in 1782 that the source of existing embarrassments was the lack of power in Congress, and suggested a Convention to amend the Articles, Congress saw no way of acting in the matter, and nothing came of it.

Various attempts to amend equally failed; and it was not until the Shays rebellion brought the country face to face with chaos that leading men everywhere bestirred themselves and anxiously sought by conference and correspondence, and through newspapers and pamphlets, to devise some plan acceptable to the country, which would save the trembling government and promote public order through some stronger central power.

Washington, deeply concerned at the situation, wrote: "There are combustibles in every State which a spark might set fire to . . . I feel infinitely more than I can express for the disorders which have arisen in these States. The rebellion [Shays's], therefore, by disclosing the danger, helped to bring about a reaction, strengthen the hands of the conservatives, discredit extreme democratic tendencies, and aid the men that were seeking to give vigor to the Union."

Though for a long time no concert of action seemed possible, an unexpected way out was ultimately found in a movement which in its inception was for an entirely different purpose.

Reference has been made to the opposition of Maryland to the ratification of the Articles of Confederation until some guarantees were given that the States would cede to Congress for the benefit of the Nation their claims to the Northern and Western Territory. The vague promises made were not fulfilled, and midst the turmoil in various quarters upon this question, ugly disputes arose as to the navigation of the Mississippi and a troublesome local question between Mary-

land and Virginia over rights to the navigation of the Potomac. In 1777, those States appointed commissioners to confer upon the matter, but no adjustment was reached. The trouble increased, and in 1784, Virginia again appointed Commissioners, but without result; in 1785, Maryland suggested the cooperation of Pennsylvania and Delaware as interested parties — still with no conclusion.

No definite action was taken until 1786, when Virginia went farther and appointed Commissioners to meet those of other States to consider the trade of the Union, and invited all the States to send delegates to a meeting in Annapolis in September, 1786. Five States responded by delegates, and discussion was had of existing conditions throughout the Union. Finally, upon motion of Alexander Hamilton, the meeting resolved to lay before Congress a plan for a general Convention in Philadelphia in May, 1787, "to make the constitution of Federal Government adequate to the emergencies of the Union." This was a decided and broad step forward, and in February, 1787, Congress took the matter up, and though it made no reference to the Annapolis Convention, voted to call a Convention of all the States in Philadelphia in May, "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several Legislatures such alterations and provisions thereof as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to exigencies of the government and the preservation of the Union."

It is well to note how carefully limited this vote was, and that its wording seemed to contemplate nothing more than amendment of the existing Articles of Confederation requiring the assent of all the thirteen States; but the people eagerly grasped at some method of ending the political confusion, and were not disposed to be critical of the exact

terms so long as action might result in a government with real power to legislate and to enforce its acts. That the subsequent Convention departed pretty widely from the words and meaning of the vote in formulating an entirely new Constitution requiring for its ratification the assent of but nine States, can hardly be doubted; and it was not strange that, later on, those opposed to the Constitution found cogent and plausible arguments against it in this seeming assumption of powers not conferred upon the Convention, and claimed with some force that it proposed a secession from Articles of Confederation to which all the thirteen States had pledged themselves.

The response, however, to the action of Congress was immediate, and all the States except Rhode Island chose delegates to attend the Convention.

It assembled in Philadelphia in May, 1787, and showed a body of men unequalled by any that had before assembled in America and not surpassed since; for among its members were a very large part of the most eminent and active patriots of the Revolution — soldiers, civilians, lawyers and statesmen. Some able men like Jefferson and John Adams, who probably would have been members, were abroad on foreign missions; and, unfortunately, some well-known patriots like Patrick Henry, Samuel Adams and others, stood aloof, disapproving the Convention and its purpose; but there were Washington, Madison, Hamilton, Franklin, James Wilson, the Pinckneys, Randolph, Dickinson, Rufus King, John Langdon, Caleb Strong, Nathaniel Gorham, Jared Ingersoll, Jonathan Dayton, William S. Johnson, Roger Sherman, Oliver Ellsworth, Elbridge Gerry and many others, representing the best intellect and statesmanship of the country.

A majority representation from seven States was secured May 25, when Washington was chosen President of the Convention and William Jackson Secretary. New Hamp-

shire appeared in June, and a little later representation was secured from all the States except Rhode Island.

On May 28, at the first meeting, there appeared great divergence of views among the delegates as to the powers conferred upon them, and as to what action could be taken in conformity with the call for the Convention. There were three distinct groups, each holding its opinions with great positiveness, so much so as to make ultimate agreement seem almost hopeless. There were those who sought a National Government with sovereign powers, but leaving the independent States in control of local matters not inconsistent with the necessary powers of the central government, yet giving the larger States the dominating power. There were others who insisted that the National Government should be supreme even to the extinction of the independent States, thus creating a semi-monarchical form of government; and there was yet another group which sought only a Confederation similar to that already existing, remedying existing defects by conferring enlarged powers upon Congress.

In addition to these divergencies were the sectional jealousies already appearing between North and South, and the alarm of the smaller States lest they be overwhelmed and controlled by the power of the larger States. Several plans were proposed. Virginia, through Edmund Randolph, submitted an outline of a Constitution with fifteen articles. Charles Pinckney of South Carolina submitted another with sixteen articles, in general harmony with Randolph's; and William Patterson of New Jersey submitted one with eleven articles which more nearly represented the views of those who wanted merely a Confederation.

Without following the debates in the Convention, we can refer here only to the general results, remembering that those were reached only after prolonged and heated debate, during which some members withdrew from the Convention. The

Patterson resolutions were not approved, but the Randolph resolutions, modified by Pinckney's and consisting, when reported, of nineteen articles, were submitted to the whole House, June 19. Parts of them were adopted, but the crucial propositions — those relating to the nature, tenure and power of the Executive, the establishment of National Courts, the tenure and power of the Judges and by whom they should be appointed, and the question of whether there should be one or two Houses of Congress, and in either case in what way the States should be represented, particularly those States in which slaves formed part of the population — all these questions caused violent discussion and were only finally settled by a compromising spirit and by majority votes.

The question as to Congress came near to disrupting the Convention. No agreement could be reached in Convention and the matter was finally referred to a Committee to report some definite plan. With infinite difficulty that Committee in the end came to an agreement that there should be two Houses, — one composed of members elected by the States in proportion to the population, the slaves being reckoned upon a fractional enumeration, and the other with equal representation from each State. The Convention having adopted this plan, nothing remained to excite discussion except the provision that the Constitution should go into effect upon its ratification by nine States. It was argued with much force by those opposed to it, that this was in direct contravention to the Articles of Confederation, which all the States had agreed to and which required the assent of the whole thirteen to any amendment or alteration, and in fact constituted a secession by nine States.

The Article was finally carried, however, by a majority vote of eleven States, and by the vote of Alexander Hamilton of New York, and the Constitution as adopted ordered, September 17, 1787, to be transmitted to Congress to be by that body

submitted to Conventions of the States for ratification. The narrow escape of the Convention from utter failure is evidenced by the fact that of the sixty-five delegates chosen as members, eleven declined or did not attend; that the largest number ever in attendance at any one time was fifty-five, although two new members had been appointed in place of the two declining; that three members withdrew; that nine others were not present when the Constitution was adopted; that three who were present — Randolph, Mason and Gerry — refused to sign; and that, ultimately, but thirty-nine delegates actually signed the Constitution.

The Convention dissolved, by no means sure that Congress or the States would approve its action. Washington himself is reported to have exclaimed in intense anxiety that if that Constitution failed of ratification, no other Constitution could be recalled in peace, but the next would be written in blood.

In reading what is published of the debates in Convention, the papers in the Federalist, and the discussion in the States, upon the question of ratification, one is struck with the fact that nearly every question now exciting the public mind was then thoroughly considered, so that questions now termed progressive seem almost reactionary. The tenure and power of the Executive were exhaustively discussed; the eligibility to re-election; the tenure and power of the judges and their responsiveness to public opinion; the whole theory of representative government; the method of electing Senators and Representatives; the advantages or dangers of unchecked popular action — all the arguments pro and con with which we are now familiar were then brought forward and carefully weighed, and that, too, by the ablest minds and the clearest thinkers this country has ever produced. The result excited the admiration of the world, and has wonderfully stood the test of over a century and a quarter. If the work can be

improved upon to-day, the least that can be asked is deliberation and the careful thought of our strongest statesmen.

Congress received the work of the Convention with some coolness and with evident inclination at first to object to it as contrary to the powers conferred upon the Convention; — but the perilous condition of the country and the imperative necessity of speedy action so far influenced them that, September 28, 1787, it was voted to submit the Constitution to Conventions in the States as recommended.

This action, however, did not end the matter, for fierce factional contests over the ratification of the Constitution arose in the different States, and the result was long in doubt.

Eminent patriots like Patrick Henry, Samuel Adams, Clinton, Mason and others bitterly opposed it, while some whose aid was greatly needed rendered hesitating support. How evenly divided the parties were in the several States is shown by the following votes:

Delaware, December 7, 1787, New Jersey, December 15, 1787, and Georgia, January 2, 1788, ratified it unanimously; Pennsylvania was the scene of most bitter conflict, but ratified December 12, 1787, by a vote of 46 to 23; Connecticut ratified January 9, 1788, 128 to 40; Massachusetts, long doubtful and secured only by the conversion of Samuel Adams and Hancock, ratified February 6, 1788, 187 to 168; Maryland, after a hard contest, April 28, 1788, 63 to 12; South Carolina, May 23, 1788, 149 to 73; Virginia, after great excitement, June 25, 1788, 89 to 79. Thus the nine States were secured, and in fact ten, — for New Hampshire had ratified June 21, 1788, 57 to 46, but the news had not been received when the vote of Virginia was returned. July 26, 1788, New York ratified, 30 to 27, insisting at the same time, as several other States did, upon the adoption of amendments proposed, some of which were subsequently included; November 21, 1789,

North Carolina ratified, 193 to 75, and the last of the thirteen — Rhode Island — ratified May 29, 1790, 34 to 32.

July 2, 1788, after ratification by nine States, as provided, the President of Congress reported their action, and Congress, September 13, 1788, appointed the first Wednesday in January, 1789, for the choice of electors in the several states which before said day should have ratified the Constitution, — the first Wednesday in February for the electors to assemble in their respective States and vote for a President, and the first Wednesday in March in New York for the beginning of the new Government; and there, April 30, 1789, George Washington was inaugurated as the first President of the United States.

Thus, after thirteen years of indecision, weakness and strife, the United States stood forth as a real Nation with a government, republican in form and endowed with the powers of a sovereign Nation. The Declaration of Independence was at last made effective, and the American Revolution was completed.

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